

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
Plaintiff)	
)	CR. No. 04-10290-MEL
)	
v.)	
)	
GABRIEL HERNANDEZ)	
Defendant)	
)	

DEFENDANT'S MOTION REQUESTING ORDER TO BUREAU OF PRISONS
TO TRANSPORT DEFENDANT

Now comes the Defendant through his undersigned attorneys and requests that the Court order the Bureau of Prisons (BOP) honor a writ of habeus corpus ad prosequendum issued by the Lowell District Court requesting the Defendant be transported to Lowell for trial on February 12, 2008.

The Defendant was charged as a Felon in Possession of Firearm and Ammunition under 18 U.S.C. sec. 922(g)(1). After pleading guilty the Defendant was sentenced to 180 months. The Defendant is presently serving his sentence at FMC Devens (Federal Medical Center, PO Box 879, Ayer, MA 01432).

Shortly after arriving at FMC Devens the Defendant was advised of outstanding warrants in the Lowell District Court. (Neither Defense counsel nor appointed state counsel were aware of said warrants at the time of Defendants sentencing.) The Defendant was further advised that the failure to clear these warrants would result in a reclassification by the BOP and a transfer to a more secure facility. The Defendant is receiving necessary medical treatment at FMC Devens.

The undersigned counsel was able to remove the warrants and the matters were set for trial in the Lowell District Court on February 12, 2008.

The Defendant is requesting that this motion be allowed and the Bureau of Prisons at FMC Devens be ordered to transport the Defendant to Lowell District Court on February 12, 2008. A proposed order is attached hereto.

Respectfully submitted
Gabriel Hernandez
By his attorneys
/s/ Albert F. Cullen, Jr.

BBO# 107900

/s/ Albert F. Cullen, III

BBO# 561223

60 K Street, Boston, MA 02127

Dated: January 29, 2008

I, Albert F. Cullen, certify that I understand that all counsel will receive electronic notice of the electronic filing of this pleading.

/s/ Albert F. Cullen, Jr.

Albert F. Cullen, Jr.